

Protection of human burial sites and remains
(HB 2434 by Wallace/Santiesteban)

DIGEST: HB 2434 would have made it a Class A misdemeanor (maximum penalty one year in jail and a fine of \$2,000) to knowingly disturb, damage or destroy a human burial or to buy sell or barter human remains. Knowingly or intentionally failing to report disturbance of a burial would have become a Class B misdemeanor (maximum penalty 180 days in jail and a fine of \$1,000).

The state archeologist would have determined the proper disposition of burials under jurisdiction of that office. The decision would have required a reasonable effort, in cooperation with the Texas Indian Commission, to locate persons with direct kinship, tribal, or community relations with a person whose remains constitute the burial. An advisory committee would have been established to assist the state archeologist in determining the proper disposition of human remains and associated burial objects. If a burial were situated on private property, the state archeologist would have been required to negotiate an agreement with the landowner over disposition of the remains.

GOVERNOR'S
REASON
FOR VETO:

Current law provides enough regulation and protection for burial sites and remains. This bill would create new criminal offenses for various acts relating to burial sites. It would also create an advisory committee to assist the state archeologist with the disposition of remains. The committee would have consisted, in part, of the members of the Indian Commission, which was not continued by the Legislature under the Sunset process.

RESPONSE:

Rep. Ralph Wallace, the author of HB 2434, said that the purpose of this bill was to help protect, preserve, and record a valuable part of the Texas heritage. It was to have provided protection for all burials, not just Indian burials. The governor's desire to kill the Indian Commission was insufficient reason to veto HB 2434. Czech and other early immigrant groups buried their dead in unmarked places to protect them; when these burial places are encountered today, respect for human remains needs the protection of law.

We need to send a strong message to looters and anyone who would profit from human remains, Rep. Wallace said. When a burial site is destroyed, the historical information it represents can never be reconstructed. Over 20 other states have passed similar legislation. This veto just sets Texas back in the preservation of its past.

NOTES:

The House Research Organization analysis of HB 2434 appeared in Part Three of the May 19, 1989 Daily Floor Report.